IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 1720 OF 1984.

M/s.Gandhi Qureshi and Patel. ... Plaintiff.

V/s.

Lilavati we/of Gunvantrai
Parekh & Anr. ... Defendants.

None for the plaintiff.

L.C.Joshi for the defendants.

CORAM: V.C.DAGA, J.

DATED: 3rd March 2006.

P.C.:

. The learned single Judge; vide order dated 30th September, 2005, passed in Notice of Motion No.2795/2005, was pleased to make the motion absolute and set aside the exparte order of dismissal. The suit was restored to file, subject to payment of costs quantified in the sum of Rs.10,000/-. Written statement of defendant No.2 was taken on record. Since the defendant No.1 reported to have expired her name was deleted. Directions were given to the parties to file affidavits of documents within two weeks from the date of the order and to take inspection thereof within two weeks thereafter. The Court Commissioner was appointed and permitted to proceed with the evidence. However, it appears

that the plaintiff has not complied with the direction with regard to payment of costs. Consequently, the suit cannot be said to have been restored, since restoration thereof was subject to payment of costs. Suit is, therefore, deemed to have been dismissed for non-compliance of the order dated 30th September, 2005.

2. Registry is directed to consign the suit papers to the record.

(V.C.DAGA, J.)